

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
May 9, 2007

ITEM: 7

SUBJECT: Settlement of Administrative Civil Liability: South Orange County Wastewater Authority (SOCWA), San Juan Creek Ocean Outfall: The Regional Board will consider adoption of an order accepting settlement of a \$36,000 Mandatory Minimum Penalty against SOCWA for violations of effluent limitations established by Order No. R9-2000-0013, Waste Discharge Requirements for the South Orange County Wastewater Authority, Orange County, Discharge to the Pacific Ocean through the South Orange County Wastewater Authority San Juan Creek Ocean Outfall. If the Regional Board rejects the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2007-0070) (Rebecca Stewart)

PURPOSE: The Regional Board will consider whether to adopt an Order accepting SOCWA's waiver of hearing, payment of liability and funding of a Supplemental Environmental Project (SEP).

PUBLIC NOTICE: On March 22, 2007 a notice was published in the Orange County Register and on the Regional Board website soliciting public input on SOCWA's waiver of public hearing and payment of the proposed liability. The public comment period ended on April 30, 2007.

DISCUSSION: On February 9, 2007, the Executive Officer issued Complaint No. R9-2007-0035 for Administrative Civil Liability with Mandatory Minimum Penalties in the amount of \$36,000 against SOCWA for violations of effluent limitations contained in Order No. R9-2000-0013. The violations included two TCDD (dioxin) violations that occurred on May 1-2, 2006 and ten settleable solids violations that occurred between May 25 and June 11, 2006.

Three of the violations are defined as serious violations¹, which are each subject to the assessment of a mandatory minimum penalty of \$3,000 in accordance with California Water Code section 13385(h). The remainder of the violations are not serious violations but were the fourth or more violations within a six month period which are also subject to the assessment of a mandatory minimum penalty of \$3,000 in accordance with California Water Code section 13385(i) which resulted in a total penalty of \$36,000.

On March 5, 2007, SOCWA submitted a proposal to settle the liability outlined in Complaint No. R9-2007-0035. The settlement offer includes:

- (1) SOCWA's waiver of its right to a hearing.
- (2) A proposal to divert the maximum amount allowed by California Water Code section 13385(l)(1) to fund a SEP². The proposal includes:
 - a. A check in the amount of \$10,500 payable to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account; and,
 - b. A proposal to provide \$25,500 to the Southern California Coastal Waters Research Project (SCCWRP) to fund a SEP which would enhance the Doheny Epidemiology Study.

Regional Board staff supports the settlement offer for the following reasons:

- (1) The proposed SEP will provide valuable data on non-point sources of fecal contamination in coastal waters:
- (2) The proposed SEP is not required of the discharger by any rule or regulation of any entity;

¹ A serious violation means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant by 40 percent or more.

² The Water Code dictates that if an MMP exceeds \$15,000, the portion of the penalty amount that may be directed to fund a SEP may not exceed \$15,000 plus 50 percent of the penalty amount that exceeds \$15,000.)

- (3) SCCWRP is a reliable project trustee; and,
- (4) The SEP will require minimal additional Regional Board staff oversight.

If the Regional Board does not adopt the tentative Order accepting SOCWA's settlement, a hearing will be rescheduled for a future Regional Board meeting.

KEY ISSUE: Review of the SEP application confirms that the proposed project is above and beyond SOCWA's regulatory requirements and is an appropriate project to be funded by this enforcement action.

LEGAL CONCERNS: None.

SUPPORTING DOCUMENTS:

1. Location Map
2. Tentative Order No. R9-2007-0070
3. SOCWA's March 5, 2007 settlement offer
4. SOCWA's April 18, 2007 SEP Proposal
5. Administrative Civil Liability Complaint No. R9-2007-0035

RECOMMENDATION: The adoption of tentative Order No. R9-2007-0070 is recommended.